

# COMPLIANCE NEWS

October 2006

*Newsletter for the Marketing Order Administration Branch Compliance Program*

[www.ams.usda.gov/fv/moab.html](http://www.ams.usda.gov/fv/moab.html)

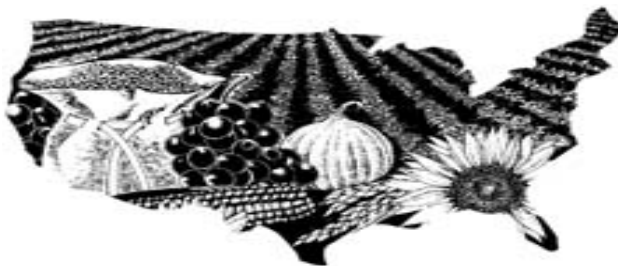
## *In This Issue*

- Greetings
- News
- Marketing Order Compliance
- Section 8e Compliance



### *Individual Highlights:*

Staff Highlights	1
Port Presentations	2
Civil Penalties	3
Compliance Issues	3
Import Summaries	5



## Greetings

Hello and welcome to the current issue of Compliance News! This is our first edition since January 2005, but with our compliance team now complete we look forward to publishing up-to-date news on a quarterly basis.

This issue will cover compliance activities through September 2006. Thank you for reading *Compliance News* and as always, we look forward to working with you on all Marketing Order and Section 8e related compliance issues.

- MOAB Compliance Team

## News

### *Compliance Team Personnel Updates*

We are pleased to announce the selection of four individuals to round out our Compliance staff: **Maria Esguerra**, was hired as a Senior Marketing Specialist while **Andrew Regalado**, **Lilly Simmering** and **Greg Breasher** have all joined the team as Marketing Specialists.

**Maria Esguerra** was hired in July of 2005, having transferred in from the AMS Compliance and Analysis Office in Fresno, California, where she acted as a Compliance Officer. Prior to that Maria was an Accounting Manager for Wells Fargo Bank in San Francisco, CA.

Her wealth of experience in the field, coupled with her knowledge of business practices, gives Maria a strong grasp on compliance issues and provides her with the broad base of skills needed in conducting complex investigations and reviews.

Maria received her Bachelor of Science degree in Finance from San Francisco State University and has an MBA in Management from Golden Gate University.

## ***Personnel Updates (cont.)***

**Andrew Regalado** joined MOAB in November of 2005. He was previously employed as an Agricultural Commodity Grader with the Fresh Products Branch at the Hunts Point Terminal Market in New York. Andrew brings a wealth of knowledge regarding commodity identification and its movement in the supply chain. This experience lends itself directly to his work in Section 8e compliance. Andrew is a graduate of the University of Maryland, College Park where he earned his BS in Agricultural Resource Economics.

**Lilly Simmering** hails from Fresno, California where her family still remains today. She earned her Bachelor of Art degrees in Public Relations and Political Science from Pepperdine University in Malibu, CA in 2000 and her Juris Doctorate from Western State University, College of Law in Fullerton, CA in 2003. She arrived in Washington DC in June 2005 where she was admitted to the Washington DC Bar and practiced law in the firm of O'Melveny & Myers, LLP in its white collar crime litigation division until she joined MOAB in April of 2006. Obviously, her skill set makes her a perfect addition to the compliance team.

Our latest hire, **Greg Breasher** was brought in as a Marketing Specialist this past May. He was previously employed with Produce Report Company (better known as The Blue Book), as Manager of Special Services. Prior to that, he spent four years as a Regulatory Marketing Specialist with the USDA's PACA Branch. At both jobs he was charged with handling dispute resolution, and conducted numerous personal investigations and collections. Greg is also a native of California and graduated from Fresno State University.

Please join us in welcoming Maria, Andrew, Lilly and Greg to the team.

## ***Section 8e Presentations***

On May 24, 2006, Senior Marketing Specialist Rick Lower conducted a port presentation in Los Angeles, California, where he discussed Section 8e compliance. Rick also presented this seminar in Seattle on June 13<sup>th</sup> and in Blaine, Washington, June 14<sup>th</sup>.

While Specialist Lower was busy educating those involved with subject commodities in the Pacific Northwest, Andrew Regalado was conducting his port presentations in the cities of Hidalgo and Laredo, Texas on the same dates.

Greg Breasher later joined Andrew for a presentation in Detroit, MI, on August 22, 2006. This seminar was conducted a week after a joint presentation was held at the Hunts Point Terminal Market in The Bronx, New York. Present during that discussion was Compliance Team Program Manager Jared Burnett, Rick Lower, Andrew Regalado and PACA Misbranding Officer, Floyd White. Lindsay Hamme, Agricultural Commodities Grader, with the Fresh Products Branch also presented.

## ***Internal Control Reviews Planned***

The Internal Control Review Program, headed by Bob Connors, is in full swing with more than a dozen Marketing Order Committees to be visited in 2007. The target for this project is to have all committees reviewed by 2008.

## ***Upcoming Marketing Order Committee Meetings***

The Colorado Potato Administration Committee (Area II) will meet in Monte Vista, CO, on October 19, 2006, in order to discuss handling regulations.

A meeting regarding pear research priority planning will be conducted by the Processed Pear Committee and will take place on October 19, 2006

### ***Civil Penalties Paid***

The U.S. Department of Agriculture has received a \$10,000 civil penalty from an Oregon onion handler who violated Federal Marketing Order 958, which regulates onions grown in certain designated counties in Idaho and Malheur County, Ore.

The company failed to pay assessments in violation of Section 958.42 of the marketing order during the 2004-2005 and 2005-2006 crop years, and has signed a consent decision admitting the violations of the order in lieu of a formal administrative hearing.

The Agricultural Marketing Agreement Act authorizes the USDA to institute formal administrative proceedings against a handler who violates provisions of the marketing order. USDA's Agricultural Marketing Service offers written agreements, or consent decisions, to a violator who agrees to waive a hearing and pay a civil penalty without having the USDA initiate a formal administrative proceeding.

The Department also received a \$750 penalty from a South Florida avocado handler who allegedly violated 7 CFR Section 944.28, which governs avocado import grade regulations.

The agreement indicates that the handler of record failed to meet Section 8e import requirements under the Agricultural Marketing Agreement Act of 1937 by not failing to obtain an AMS quality inspection on 209 cartons of Dominican Avocados.

A civil penalty in the amount of \$450 was also levied against a San Juan Bautista, California, produce business for violating Section 8e requirements. The firm was fined for failing to present 432 cartons for fresh onions that failed to meet the minimum import requirements for re-inspection.

The Department levied a civil penalty against a South Florida handler for allegedly violating 7 CFR Section 982.45, which governs grade standards for hazelnuts. The firm failed to meet import requirements for 35 shipments into the U.S. during the 2005 calendar year.

A stipulation agreement was accepted and a settlement was reached totaling more than \$17,500. The signed settlement represents the end of an investigation by MOAB Compliance staff that began in February of 2006.

**Section 8e of the Agricultural Marketing Agreement Act provides that when certain domestically produced commodities are regulated under a federal marketing order, imports of the commodity must meet the same or comparable grade, size, quality and maturity requirements.**

### ***Marketing Order Hearings***

The USDA held a public hearing on Aug. 16, 2006, in Homestead, Florida on proposals to amend the federal marketing order for avocados grown in south Florida. The hearing was conducted at the University of Florida's IFAS Conference Room. The Florida Avocado Administrative Committee, which locally administers the order, proposed the amendments.

These amendments would provide the Committee authority to borrow funds, revise the voting requirements for changing the assessment rate, allow District I nominations to be conducted by mail, and provide the committee authority to accept voluntary contributions.

Previously, a public hearing on proposals to amend the Federal Marketing Order for onions grown in South Texas was held on June 15, 2006.

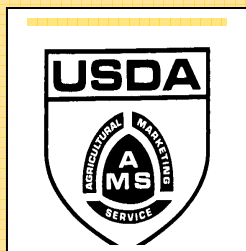
**MOAB Compliance Team**  
1400 Independence Ave., SW  
Room 1406-S, Mail Stop 0237  
Washington, DC 20250-0237

Phone:  
(202) 690-0464

Fax:  
(202) 720-5698

E-mail:  
JaredK.Burnett@usda.gov

***We continue to pursue  
our goal of providing  
quality customer service.***



### ***Hearings (cont.)***

Four proposed amendments were submitted by the South Texas Onion Committee, which is responsible for local administration of Federal Marketing Order 959.

These amendments to M.O. 959 would add authority to establish supplemental assessment rates on specified containers of onions; authorize interest and late payment charges on assessments not paid within a prescribed time period; add authority for the Committee to engage in marketing promotion/paid advertising activities and authorize container marking requirements on containers of onions prior to shipment.

### ***New Proposed Marketing Order***

MOAB has been working closely with the industry on development of a new marketing order for Clementines grown in California.

Many growers have called expressing interest in the order and have indicated that over 90 percent of the industry is in favor of such.

The proponents of this order and MOAB staff have met with USTR and ITC on determining the best approach in effectuating an order and defining the commodity more narrowly. Stay tuned.

### ***Who Are We? What Do We Do?***

Our team's two main responsibilities include marketing order compliance and compliance for all imported commodities regulated by Section 8e of the Agricultural Marketing Agreement Act of 1937. Specifically, the team directs and coordinates all Branch compliance and litigation activities, including committee compliance plans, 8e compliance actions, fines, and administrative penalties, 15(A) petitions, Export Fruit Act cases, Potato Spot-check Program concerns, as well as compliance, administrative and internal control reviews of marketing order committees.

With our new hires, we currently have a staff of eight: Jared Burnett, Compliance Team Manager; Richard Lower, Senior Marketing Specialist, Robert Connors, Auditor, Maria Esguerra, Senior Marketing Specialist, Andrew Regalado, Marketing Specialist, Lilly Simmering, Marketing Specialist, Greg Breasher, Marketing Specialist and Karen Chaney, Marketing Assistant.

### ***8e Import Data Summaries***

The remainder of this newsletter compares import data from January to July for the years 2005 and 2006.

**Avocados****Port of Entry**

	2005 (JAN-JUL)	2006 (JAN-JUL)
LAREDO, TX	40.9%	42.9%
HIDALGO, TX	21.9%	42.0%
LOS ANGELES, CA	25.4%	5.4%
MIAMI, FL	2.6%	3.8%
	90.8%	93.9%

**Country of Origin**

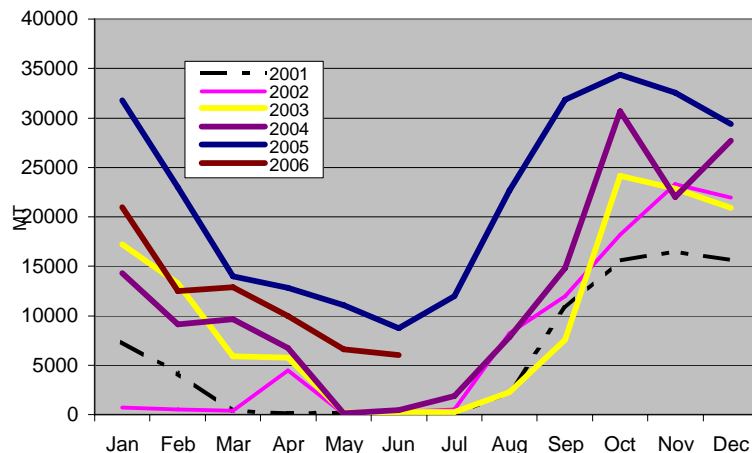
	2005 (JAN-JUL)	2006 (JAN-JUL)
MEXICO	67.4%	86.6%
DOMINICAN REPUBLIC	3.7%	7.4%
CHILE	28.8%	6.0%
	100.0%	100.0%

**Total Imported**

Metric Tons	113,426	68,939
-------------	---------	--------

**Marketing Order Period**

By Variety

**Dates****Port of Entry**

	2005 (JAN-JUL)	2006 (JAN-JUL)
MINNEAPOLIS-ST. PAUL, MN	32.9%	30.6%
LOS ANGELES, CA	24.8%	28.0%
NEWARK, NJ	21.9%	22.6%
CHICAGO, IL	14.0%	5.5%
	93.7%	86.8%

**Country of Origin**

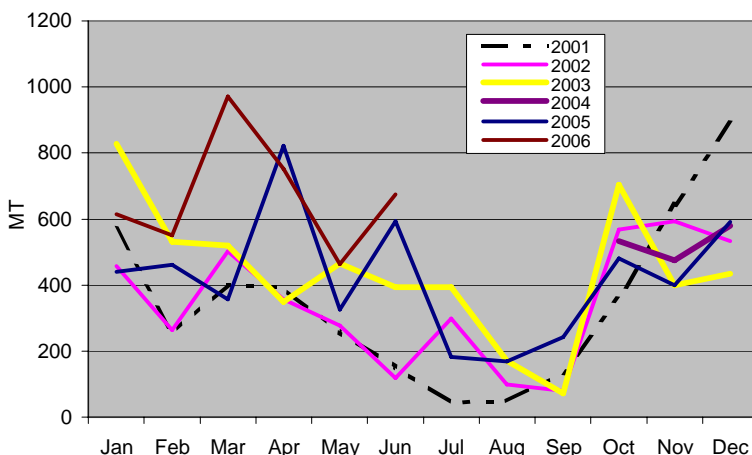
	2005 (JAN-JUL)	2006 (JAN-JUL)
PAKISTAN	46.3%	58.5%
CHINA	12.2%	12.3%
IRAN	5.3%	12.1%
	63.8%	82.8%

**Total Imported**

Metric Tons	3,182	4,027
-------------	-------	-------

**Marketing Order Period**

All Year

**Grapefruit****Port of Entry**

	2005 (JAN-JUL)	2006 (JAN-JUL)
FORT PIERCE, FL	98.6%	94.5%
HIDALGO, TX	0.1%	4.9%
NOGALES, AZ	0.7%	0.4%
BLAINE, WA	0.2%	0.1%
	99.6%	100.0%

**Country of Origin**

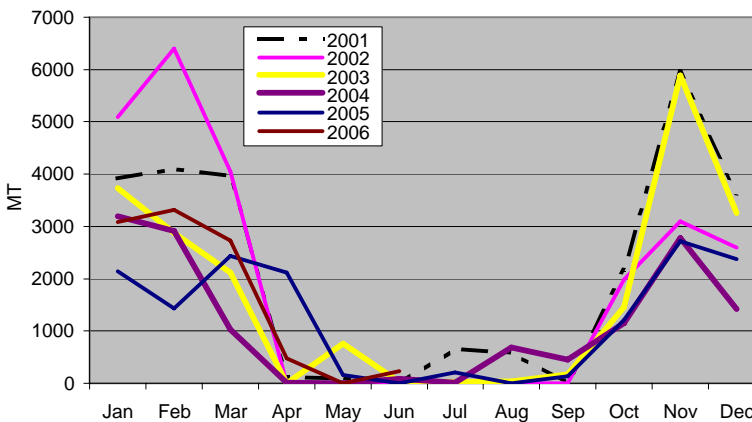
	2005 (JAN-JUL)	2006 (JAN-JUL)
BAHAMAS	98.6%	94.5%
MEXICO	1.0%	5.4%
CANADA	0.2%	0.1%
	99.8%	100.0%

**Total Imported**

Metric Tons	8,487	9,847
-------------	-------	-------

**Marketing Order Period**

All Year



**Hazelnuts/Filberts****Port of Entry**

	2005 (JAN-JUL)	2006 (JAN-JUL)
NEWARK, NJ	59.4%	54.4%
NEWPORT NEWS, VA	18.9%	30.2%
NEW YORK, NY	6.9%	7.4%
NORFOLK, VA	2.4%	4.0%
	87.5%	95.9%

**Country of Origin**

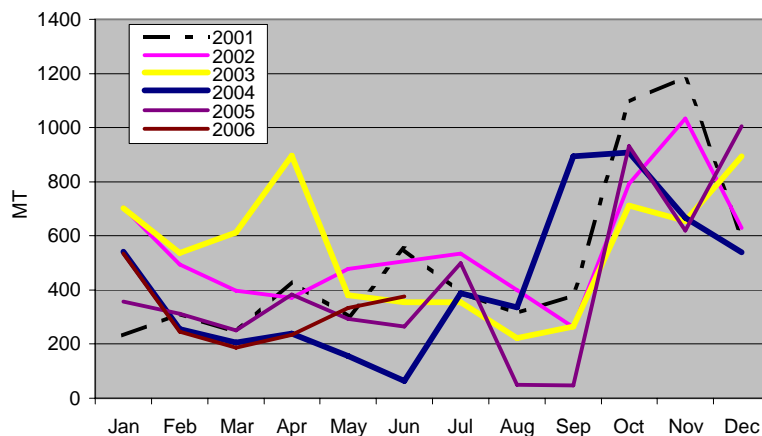
	2005 (JAN-JUL)	2006 (JAN-JUL)
TURKEY	40.2%	95.7%
ITALY	48.7%	2.6%
TOKELAU	0.0%	1.2%
	89.0%	99.5%

**Total Imported**

Metric Tons	2,361	1,909
-------------	-------	-------

**Marketing Order Period**

All Year

**Kiwifruit****Port of Entry**

	2005 (JAN-JUL)	2006 (JAN-JUL)
PHILADELPHIA, PA	44.9%	46.6%
LOS ANGELES, CA	41.0%	42.7%
WILMINGTON, DE	1.2%	6.0%
NEWARK, NJ	10.9%	2.9%
	97.9%	98.3%

**Country of Origin**

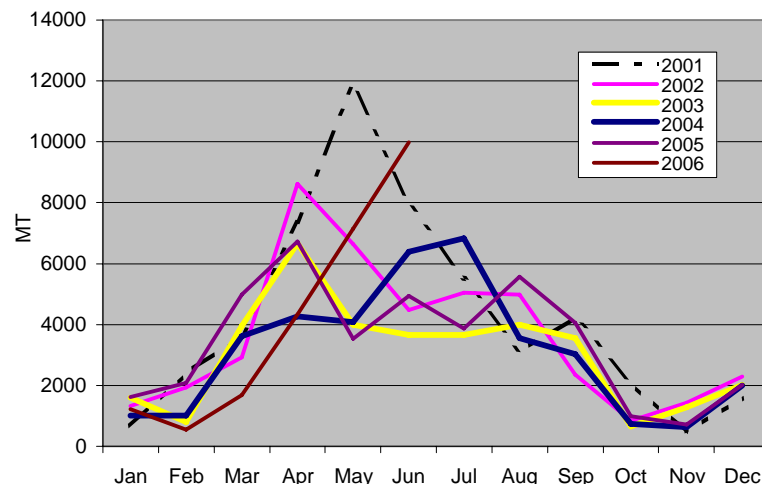
	2005 (JAN-JUL)	2006 (JAN-JUL)
CHILE	54.1%	59.6%
NEW ZEALAND	25.9%	32.3%
ITALY	18.6%	7.2%
	98.5%	99.1%

**Total Imported**

Metric Tons	27,760	24,929
-------------	--------	--------

**Marketing Order Period**

All Year

**Olives****Port of Entry**

	2005 (JAN-JUL)	2006 (JAN-JUL)
NEWARK, NJ	30.5%	25.9%
BALTIMORE, MD	17.0%	23.3%
HOUSTON, TX	14.4%	14.6%
LOS ANGELES, CA	9.8%	9.7%
	71.6%	73.4%

**Country of Origin**

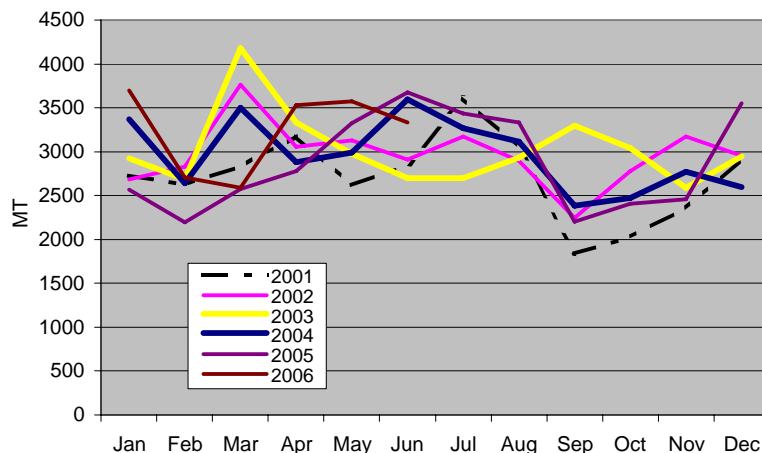
	2005 (JAN-JUL)	2006 (JAN-JUL)
SPAIN	61.5%	48.0%
MOROCCO	24.5%	39.0%
ARGENTINA	2.6%	4.9%
	88.6%	91.8%

**Total Imported**

Metric Tons	20,555	19,431
-------------	--------	--------

**Marketing Order Period**

All Year





**Onions\***

\*Onion import data includes green onion volumes (non-8e) due to use of same tariff Code

**Port of Entry**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
HIDALGO, TX	39.8%	27.1%
CALEXICO (EAST), CA	21.2%	23.5%
SAN LUIS, AZ	8.9%	10.6%
EL PASO, TX	4.2%	6.8%
	74.1%	68.0%

**Country of Origin**

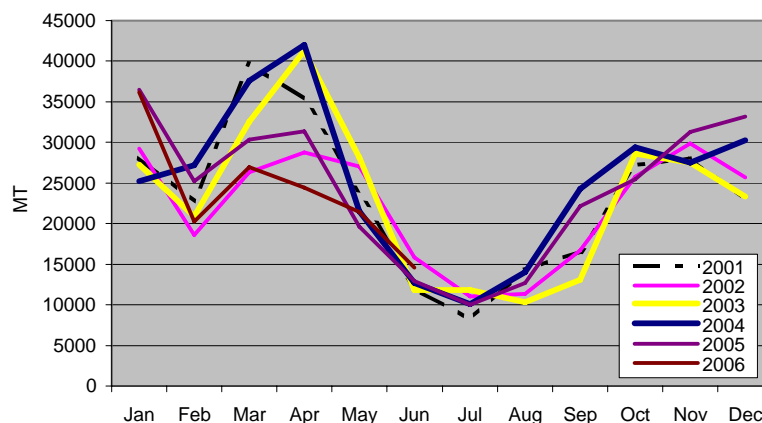
	2005	2006
	(JAN-JUL)	(JAN-JUL)
MEXICO	81.2%	79.0%
CANADA	12.2%	8.3%
PERU	1.9%	6.1%
	95.4%	93.4%

**Total Imported**

Metric Tons	165,963	143,907
-------------	---------	---------

**Marketing Order Period**

All Year

**Oranges****Port of Entry**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
PHILADELPHIA, PA	33.2%	51.6%
SAN DIEGO, CA	28.1%	20.2%
NOGALES, AZ	23.9%	18.5%
LOS ANGELES, CA	2.5%	4.0%
	87.7%	94.2%

**Country of Origin**

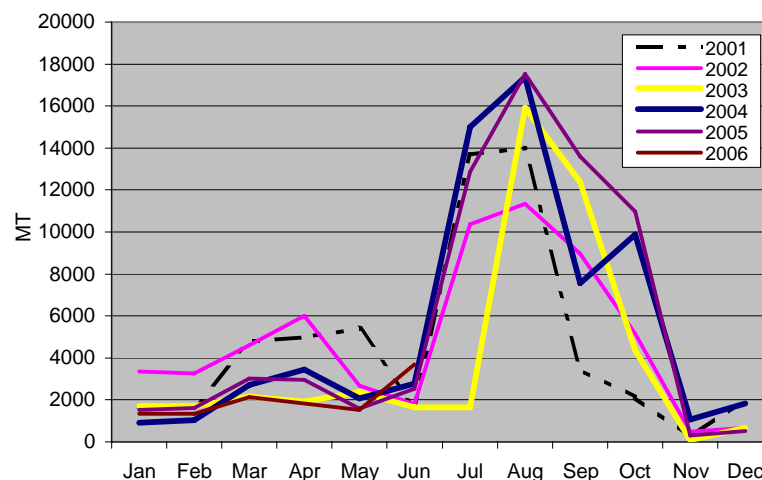
	2005	2006
	(JAN-JUL)	(JAN-JUL)
MEXICO	33.1%	50.4%
AUSTRALIA	30.7%	24.1%
#REF!	29.3%	21.2%
	93.1%	95.7%

**Total Imported**

Metric Tons	26,082	11,811
-------------	--------	--------

**Marketing Order Period**

Sep 1 - Jun 30

**Potatoes****Port of Entry**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
HOULTON, ME	30.8%	35.3%
CALAIS, ME	18.7%	19.0%
SAN JUAN, PR	11.5%	14.1%
CHAMPLAIN-ROUSES, NY	11.8%	10.2%
	72.8%	78.6%

**Country of Origin**

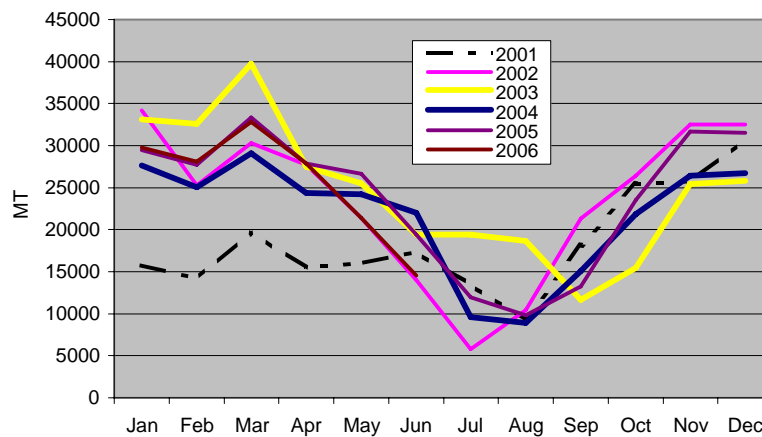
	2005	2006
	(JAN-JUL)	(JAN-JUL)
CANADA	100.00%	99.99%
NICARAGUA	0.000%	0.005%
MEXICO	0.001%	0.000%
	100.00%	100.00%

**Total Imported**

Metric Tons	176,516	154,498
-------------	---------	---------

**Marketing Order Period**

All Year



**Raisins****Port of Entry**

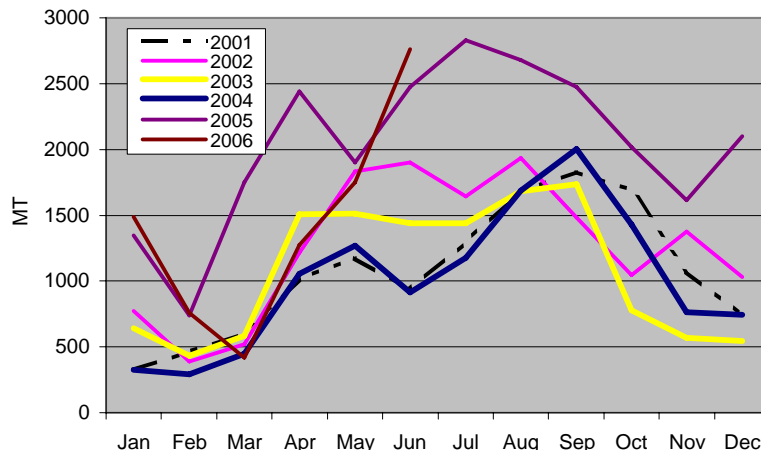
	2005	2006
	(JAN-JUL)	(JAN-JUL)
NEWARK, NJ	28.0%	36.1%
SAN FRANCISCO, CA	20.2%	20.8%
NORFOLK, VA	13.1%	13.6%
NEW YORK, NY	13.1%	11.1%
	74.4%	81.6%

**Country of Origin**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
CHILE	53.9%	56.1%
SOUTH AFRICA	9.8%	11.8%
MEXICO	7.2%	11.2%
	70.9%	79.1%

**Total Imported**

Metric Tons	15,772	12,322
-------------	--------	--------

**Marketing Order Period**

All Year

**Table Grapes****Port of Entry**

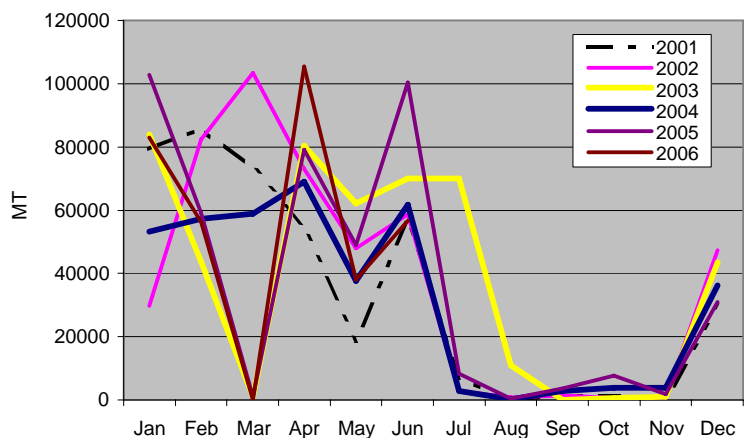
	2005	2006
	(JAN-JUL)	(JAN-JUL)
PHILADELPHIA, PA	28.8%	35.4%
NOGALES, AZ	46.8%	30.3%
LOS ANGELES, CA	10.9%	16.4%
WILMINGTON, DE	9.7%	16.0%
	96.3%	98.0%

**Country of Origin**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
CHILE	51.5%	68.1%
MEXICO	47.8%	31.0%
PERU	0.4%	0.8%
	99.7%	99.9%

**Total Imported**

Metric Tons	399,724	339,373
-------------	---------	---------

**Marketing Order Period**

Apr 20 - Aug 15

**Tomatoes****Port of Entry**

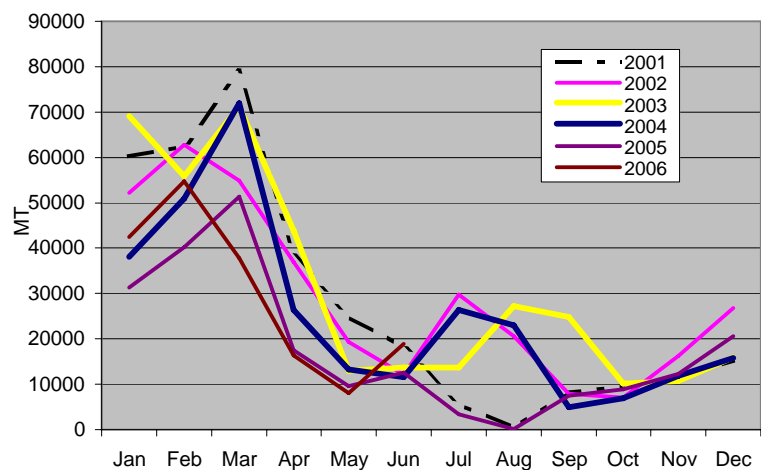
	2005	2006
	(JAN-JUL)	(JAN-JUL)
NOGALES, AZ	79.3%	52.3%
OTAY MESA STATION, CA	17.6%	43.6%
DETROIT, MI	0.2%	1.6%
HIDALGO, TX	1.3%	1.1%
	98.4%	98.6%

**Country of Origin**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
MEXICO	98.8%	97.4%
CANADA	0.9%	1.8%
ITALY	0.0%	0.3%
	99.7%	99.5%

**Total Imported**

Metric Tons	165,865	178,462
-------------	---------	---------

**Marketing Order Period**

Oct 10 - Jun 15



**Walnuts****Port of Entry**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
NEWARK, NJ	38.1%	64.5%
SAN FRANCISCO, CA	14.2%	32.6%
PORT HURON, MI	0.0%	2.5%
SAN JUAN, PR	0.0%	0.2%
	52.3%	99.9%

**Country of Origin**

	2005	2006
	(JAN-JUL)	(JAN-JUL)
SPAIN	22.1%	47.4%
UNITED STATES	0.0%	32.6%
CHINA	25.8%	14.9%
	47.9%	94.9%

**Total Imported**

Metric Tons	165	234
-------------	-----	-----

**Marketing Order Period**

All Year

